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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,850	04/02/2004	Hirotooshi Tawara	251239US3CONT	9706

22850 7590 11/07/2005

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ALEXANDRIA, VA 22314

EXAMINER
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SPISICH, MARK

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/815,850	TAWARA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mark Spisich	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-21 is/are allowed.
- 6) ☒ Claim(s) 14, 15, 17, 18 and 22 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4, 7/2 &amp; 8, 8, 10/2004</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of the invention of Group VIII (claims 14-22) in the reply filed on 1 September 2005 is acknowledged. The traversal is on the ground(s) that the noted groups include an overlapping search and would not constitute a serious burden. This is not found persuasive because, although there is some overlap among the noted groups, each of the noted groups are directed to distinct aspects of the disclosed cleaning device not necessarily related to (in the claims) the specific elements recited in the other groups. For example, one claim (claim 1) is solely dealing with the oscillating dustpan while some of the other claims do not even recite a dustpan at all. The common subject matter between the noted claims is essentially that of the prior art, and the claims of the noted groups narrow in on specific features not even broadly claims in the other groups. Searching for an oscillating dustpan, mixed fiber bristles and a speed increasing means all independent of one another constitutes such a divergence as to meet the "burden".

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 1 September 2005.

***Priority***

3. Acknowledgment is made of applicant's claim for foreign priority based on an application (three applications) filed in Japan on 3 October 2001. It is noted, however, that applicant has not filed a certified copy of the Japanese application as required by 35 U.S.C. 119(b).

***Drawings***

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "23E" has been used to designate both the guide shoes (eg, fig 12) and the recess portion (eg, fig. 15). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

6. The disclosure is objected to because of the following informalities: (1) "21" (page 22, line 6) should be "16"; (2) "scraping up" (page 32, lines 14,18 and 22 and page 33, lines 1,8 and 9) should be "dustpan"; (3) "61" (page 32, line 20) is incorrect (should be 101"?; (4) "body" (page 36, line 7 and page 39, line 17) should be "portion"; (5) "23D"

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(page 40, lines 23 and 26) should be "23A"; (6) "23E" (page 41, line 1) should be amended per the above drawing objection; (7) "161" (page 45, line 5) should be "121"; (8) "tier" (page 53, line 25) should be "tire"; (9) "18B" (page 57, line 16) should be "18"; (10) "(or 18C)" (page 58, lines 4,13,14 and 19) is confusing/incorrect; "(or 18A)" (page 58, line 4) is confusing/incorrect; and (11) "102" (page 58, line 9) should be "202".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. Claims 18 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 18 and 22 are indefinite and improper in that they are attempting to claim a subcombination while being dependent on a combination. A dependent claim must further limitation a claim from which it depends.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Kampfe (USP 894,011). The patent to Kampfe discloses a sweeper comprising a scraping up body (I) and "dust picking means" (o,e), tire (i) and further a speed increasing means (17,18,19) which increases the relative speed of the wheel such that the scraping up member is rotated in the same direction as that of the tire.

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10. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Mason (USP 1,268,988). The patent to Mason discloses a cleaning device comprising a scraping up body (12), "dust picking means" (the structure that collects the debris), tire (8) as well as a speed increasing means (see figure V) and the connection portion of the speed increasing means and the scraping up member is within a projection surface of the tire.

11. Claims 14 and 17(14) are rejected under 35 U.S.C. 102(b) as being anticipated by Pontious (USP 425,695). The patent to Pontious discloses a sweeper comprising a scraping up body (G), "dust picking means" (e,D), tire (B) and speed increasing means (b,h) comprised of a large internal hear (b) and a small external gear (h).

12. Claims 14,15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson (USP 481,269). The patent to Thompson discloses a sweeper comprising a scrapign up body (the brush), a "dust picking means" (B,C), tire (c,d) and speed increasing means comprising an internal gear and a small external gear (e).

#### ***Allowable Subject Matter***

13. Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 19-21 are allowed.

#### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of the cited patents are pertinent to sweepers including a speed increasing means for the brush or "scraping up body".

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich  
Primary Examiner  
Art Unit 1744

MS